(28)

HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (C) NO. 3536 of 2007

Petitioner/ Plaintiff		Smt. Kavita Lonia W/o. Kartik Ram Lonia, Aged about 40 years, R/o. Gandhi Nagar, Ratanpur, Tahsil Kota, Distt. Bilaspur (C.G.)
	Versus	
Respondents/ Defendants	1.	Additional Tahsildar, Ratanpur, Sub Tahsil-Ratanpur, Tahsil-Kota, Distt.-Bilapsur (C.G.)
	2	Sub Divisional Officer Revenue, Kota, Tahsil Kota, Bilaspur.
	3.	State of Chhattisgarh, Through:- Collector, Bilaspur (C.G.)
	4.	Smt. Savitri Bai Wd/o. Eknath Das Vaishnav, aged about 50 years, R/o. Gandhi Nagar, Ratanpur, Tahsil-Kota, Distt.-Bilaspur
	5.	Arjun Das Vaishnav S/o. Dhumdas Vaishnav, Aged about 50 years, R/o. Gandhi Nagar, Ratanpur, Tahsil-Kota, Distt. Bilaspur.

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

Single Bench :- Hon'ble Shri Justice **Satish K. Agnihotri**

Present :- Shri Deepak Jain, Advocate for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the respondents No. 1 to 3/State

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ORDER
(Passed on this 26th day of June, 2007)

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner challenges the legality and validity of the impugned order dated 22.3.2007 (Annexure P/1) passed by the Additional District Judge, Bilaspur in Miscellaneous Civil Appeal No. 28/2006, affirming the earlier order dated 29.6.2006 passed by the 9th Civil Judge Class-II, Bilaspur in Civil Suit No. 120-A/2006.

2. Learned counsel appearing for the petitioner submits that the petitioner/plaintiff filed an application under Order 39, Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the CPC") before the 9th Civil Judge Class-II, Bilaspur praying for interim injunction against the respondents/defendants No. 4

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and 5. The 9th Civil Judge Class-II, Bilaspur, after considering all the facts, came to the conclusion that the petitioner/plaintiff has failed to make out a prima facie case for grant of interim injunction and even otherwise, the balance of convenience is in favour of the respondents/defendants. Thus, the same was rejected.

3. Being aggrieved and dissatisfied with the order, the petitioner filed an appeal, being Miscellaneous Civil Appeal No. 28/2006, before the Additional District Judge, Bilaspur, wherein the Additional District Judge came to the conclusion that the petitioner/plaintiff encroached upon the land in dispute without any authority and the petitioner is not the owner of the property. Thus, the Miscellaneous Civil Appeal was rejected, confirming the order passed by the 9th Civil Judge Class-II, Bilaspur.

4. I have heard learned counsel appearing for the petitioner, perused the records and documents appended thereto, I am of the considered opinion that there is no infirmity, illegality or procedural error in the impugned order passed by the court below so asto warrant interference by this Court under supervisory jurisdiction.

5. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

6. As a result and for the reasons aforestated, this petition is dismissed, summarily.

Sd/-
Satish K. Agnihotri
Judge

B/